

In the United States Court of Federal Claims
OFFICE OF SPECIAL MASTERS
No. 23-2064V

MICHELLE RUSSELL, *as executor of
the Estate of BARBARA PLUMMER,*

Petitioner,

v.

SECRETARY OF HEALTH AND
HUMAN SERVICES,

Respondent.

Chief Special Master Corcoran

Filed: November 27, 2024

David John Carney, Green & Schafle LLC, Philadelphia, PA, for Petitioner.

Rachelle Bishop, U.S. Department of Justice, Washington, DC, for Respondent.

DECISION ON DAMAGES¹

On December 1, 2023, Michelle Russell, as executor of the estate of Barbara Plummer, filed a petition for compensation under the National Vaccine Injury Compensation Program, 42 U.S.C. §300aa-10, *et seq.*¹ (the “Vaccine Act”). Petitioner alleges that as a result of an influenza (“flu”) vaccine which Ms. Plummer received on September 26, 2022, Ms. Plummer suffered from Guillain-Barré syndrome (“GBS”), which caused or contributed to her death on April 1, 2023. Petition at 1. The case was assigned to the Special Processing Unit of the Office of Special Masters.

On August 30, 2024, a Ruling on Entitlement was issued, finding Petitioner entitled to compensation for GBS corresponding to a listing on the Vaccine Injury Table, 42 C.F.R. §§ 100.3(a)(XIV)(D), (c)(15)).

¹ Because this Decision contains a reasoned explanation for the action taken in this case, it must be made publicly accessible and will be posted on the United States Court of Federal Claims' website, and/or at <https://www.govinfo.gov/app/collection/uscourts/national/cofc>, in accordance with the E-Government Act of 2002. 44 U.S.C. § 3501 note (2018) (Federal Management and Promotion of Electronic Government Services). **This means the Decision will be available to anyone with access to the internet.** In accordance with Vaccine Rule 18(b), Petitioner has 14 days to identify and move to redact medical or other information, the disclosure of which would constitute an unwarranted invasion of privacy. If, upon review, I agree that the identified material fits within this definition, I will redact such material from public access.

On November 26, 2024, Respondent filed the attached proffer. I find the stipulation reasonable and adopt it as my decision awarding damages, on the terms set forth therein.

Pursuant to the terms stated in the attached proffer, **I award a lump sum of \$465,264.00 (including \$200,000.00 representative of pain and suffering, \$250,000.00 for the death benefit, and \$15,264.00 representative of unreimbursable expenses) in the form of a check payable to Petitioner.** Proffer at 2. This amount represents compensation for all damages that would be available under Section 15(a). *Id.*

The Clerk of Court is directed to enter judgment in accordance with this decision.²

IT IS SO ORDERED.

s/Brian H. Corcoran

Brian H. Corcoran
Chief Special Master

² Pursuant to Vaccine Rule 11(a), entry of judgment can be expedited by the parties' joint filing of notice renouncing the right to seek review.

**THE UNITED STATES COURT OF FEDERAL CLAIMS
OFFICE OF SPECIAL MASTERS**

MICHELLE RUSSELL, *as executor of the
Estate of* BARBARA PLUMMER,

Petitioner,

v.

SECRETARY OF HEALTH AND
HUMAN SERVICES,

Respondent.

No. 23-2064V

Chief Special Master Brian H. Corcoran

PROFFER ON AWARD OF COMPENSATION¹

I. Procedural History

On December 1, 2023, Michelle Russell (“petitioner”), as executor of the Estate of Barbara Plummer (“Ms. Plummer”), filed a petition for compensation (“Petition”) under the National Childhood Vaccine Injury Act of 1986, as amended, 42 U.S.C. §§ 300aa-1 et seq. (“Vaccine Act” or “the Act”). *See generally Petition*. Petitioner alleges that Ms. Plummer suffered Guillain-Barré syndrome (“GBS”) as a result of an influenza (“flu”) vaccine administered on September 26, 2022, which resulted in her death on April 1, 2023. *Id.* On August 29, 2024, respondent filed his Vaccine Rule 4(c) report, recommending that the Court find that Ms. Plummer suffered GBS as defined by the Vaccine Injury Table, within the Table timeframe, and that Ms. Plummer’s death from GBS satisfied the severity requirement. On August 30, 2024, Chief Special Master Brian H. Corcoran issued a ruling on entitlement, finding that petitioner was entitled to compensation for a GBS Table injury.

¹ This Proffer does not include attorneys’ fees and costs, which the parties intend to address after the Damages Decision is issued.

II. Items of Compensation

Based upon the evidence of record, respondent proffers that petitioner should be awarded a lump sum of **\$465,264.00**, for all damages, including \$200,000.00 representative of pain and suffering; \$250,000.00 for the death benefit; and \$15,264.00 representative of unreimbursable medical expenses. This amount represents all elements of compensation to which petitioner is entitled under 42 U.S.C. § 300aa-15(a). Petitioner agrees.

III. Form of the Award

Respondent recommends that the compensation provided to petitioner should be made through a lump sum payment, as described below, and requests that the Chief Special Master's decision and the Court's judgment award the following: A lump sum payment of **\$465,264.00** in the form of a check payable to petitioner. Petitioner agrees.

Respectfully submitted,

BRIAN M. BOYNTON
Principal Deputy Assistant Attorney General

C. SALVATORE D'ALESSIO
Director
Torts Branch, Civil Division

HEATHER L. PEARLMAN
Deputy Director
Torts Branch, Civil Division

LARA A. ENGLUND
Assistant Director
Torts Branch, Civil Division

/s/ Rachelle P. Bishop

RACHELLE P. BISHOP

Trial Attorney

Torts Branch, Civil Division

U.S. Department of Justice

P.O. Box 146

Benjamin Franklin Station

Washington, D.C. 20044-0146

(202) 616-3662

Rachelle.P.Bishop@usdoj.gov

Dated: November 26, 2024